D.B. CIVIL WRIT PETITION NO.7046/2003

[Ramdeen **Vs**. State of Raj. & Ors.]

Date 11.05.2006

PRESENT

HON'BLE MR.JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P. VYAS

Mr. M.A. Siddique for the petitioner.
Mr. N.M. Lodha, Addl. Advocate General.
Mr. A.K. Rajvanshy for the responents.

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This writ petition was filed primarily for seeking compliance of the order dated 16.11.2002 (Annex.5) wherein encroachment over the land in question were directed to be removed.

On 17.12.2003 while issuing notice, the Court called upon the respondents to place on record that if there are no orders of any court agaisnt the implementation of order dated 16.11.2002, the implementation report shall be placed on record.

The report stating that in pursuance of the direction issued by this Court on 17.12.2003 about the compliance of order Annex.5 dated 16.12.2002 for removing wall constructed in khasra No.967 through which road from Bhopalgarh to Jodhpur passes,

3720 square ft. encroachment has been removed which was caused by the respondents No.4 to 9.

The petitoner wanted to confirm the aforesaid assertion and matter was adjourned for effecting service on other respondents. Thereafter again when the matter came up before the Division Bench on 7.4.2006 it was submitted by the learned Addl. Advocate General on behalf of the respondents that the authority has taken possession of the land and the writ petition has become infructuous.

Since a request for adjournment was made on behalf the learned counsel for the petitioner, the matter was adjourned.

On the next date of hearing i.e. on 19.4.2006, in the presence of the parties, the leanred Additional Advocate General prayed for some time to place on record the details about the state of affairs presently existing on the site.

We are of the opinion that while removal of the encroachment in pursuance of order Annex.5 dated 16.11.2002 to the extent it was not stayed by any order of the Court, is not in dispute but it is urged that some further encroachments have taken place by some persons and the same have not been removed.

That being so, obviously, this petition cannot be a continuous process of directing and seeking compliance. If the fresh encroachments have been taken place then it is the obligation of the respondents to remove or stop them. On their failure to do so appropriate remedy may be persued.

This petition is dismissed. However, it may is made clear that if any fresh encroachments are made, it shall be obligation of the respondnets to remove such encroachments as early as possible.

No costs.

[R.P. VYAS], J. [RAJESH BALIA], J.

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